

## **SUBCHAPTER U : LAKE CONROE**

### **§284.481. Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Authority** - The San Jacinto River Authority.

**Commission** - The Texas Water Commission.

**Executive director** - The executive director of the Texas Water Commission.

**Holding tank** - A vented, watertight tank designed for temporary holding of sewage and so constructed as to prevent the removal of the sewage except by pumping therefrom for delivery to an approved sewage disposal system.

**Lake Conroe** - The lake in Montgomery and Walker Counties created by a dam located approximately seven miles northwest of the City of Conroe on the West Fork of the San Jacinto River in Montgomery County, Texas.

**msl** - The abbreviation for mean sea level.

**Organized disposal system** - Any system for the collection, treatment and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

**Private sewage facilities** - All facilities, systems and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the Texas Water Commission.

**Septic tanks system** - A system for disposing of sewage through soil absorption and consisting of the following components: the house sewer, the septic tank, and the soil absorption field.

**Sewage** - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

**Standards** - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules, 25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

**Subdivision** - A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or any four or more contiguous lots or tracts, each of which is less than one acre in size.

### **§284.482. Restricted Zone.**

The commission hereby designates the Lake Conroe restricted zone as the area surrounding the lake (including the lake bed) which is either within the 202.5' msl contour line or within 75 feet of the 201 feet msl line, whichever is the greater distance from the lake, measured horizontally away from the lake.

**§284.483. Water Quality Zone.**

The commission hereby designates the Lake Conroe Water quality zone as the area in the Lake Conroe watershed lying between the outer boundary of the restricted zone, designated in §284.482 of this title (relating to Restricted Zone), and parallel line located at a distance of 2,000 feet from the outer boundary of the restricted zone, measured horizontally away from the lake.

**§284.484. Sewerage Facilities.**

(a) Restricted zone. No sewerage facilities of any kind may be located within the restricted zone except:

(1) facilities of organized disposal systems authorized by valid permits issued by the Texas Water Commission;

(2) public restroom facilities approved by the authority;

(3) pumpout facilities approved by the authority for the removal and disposal of wastes from boats and other watercraft in accordance with §§321.1-321.18 of this title (relating to Boat Sewage Disposal);

(4) other systems (including evapotranspiration systems) approved by the Texas Department of Health and licensed pursuant to this subchapter;

(5) holding tanks only when soil conditions and available space will not permit any other type of private facility as determined by the authority; and

(6) septic tanks and pump tanks for septic systems which have absorption areas constructed in the water quality zone.

(b) Water quality zone. No sewerage facilities of any kind may be located within the water quality zone except those of organized disposal systems authorized by valid permits issued by the Texas Water Commission and private sewerage facilities licensed in accordance with this subchapter.

**§284.485. Discharge of Sewage.**

(a) Restricted zone. No sewage discharges of any kind may be made in the restricted zone except as follows.

(1) Organized disposal systems. Discharges of sewage may be made into organized disposal systems operating under valid permits issued by the Texas Water Commission.

(2) Removal from boats and watercraft. Sewage may be removed from boats and other watercraft in accordance with §§321.1-321.18 of this title (relating to Boat Sewage Disposal).

(3) Other discharges. Discharges from facilities provided for public rest rooms and for the removal and disposal of wastes from boats and other watercraft shall be in a manner approved by the authority.

(b) Water quality zone. No sewage discharge of any kind may be made in the water quality zone except as follows.

(1) Organized disposal systems. Discharge of sewage may be made into organized disposal systems operating under a valid permit issued by the Texas Water Commission.

(2) Licensed private sewage facilities. Discharges of sewage may be made into private sewage facilities licensed in accordance with the provisions of this subchapter.

**§284.486. Licenses for Private Sewage Facilities in Water Quality Zone.**

(a) No private sewage facility or part thereof may be constructed in the water quality zone unless a license therefore has been issued in accordance with this subchapter.

(b) Lots or tracts which will be served by private sewage facilities and which are located in a subdivision that is created subsequent to December 16, 1976 and prior to the effective date of this subchapter must average no less than one-half acre in size, considering all lot sizes in the particular subdivision, with the minimum size of any lot being one-fourth acre.

(c) A lot or tract that is not located in a subdivision or that is located in a subdivision that was created prior to December 16, 1976, must be large enough, considering the soil and drainage conditions and probable volume of sewage to be disposed of, to permit the use of the type of private sewage facility proposed without causing nuisance conditions, pollution or a threat to public health.

(d) Lots or tracts which will be served by a public water supply, but utilizing private sewage facilities for sewage disposal, must provide for individual lots having surface areas of at least 43,560 square feet (1.0 acres), exclusive of roadways and ditches. Lots or tracts which will be served by an individual water system and utilizing private sewage facilities for sewage disposal must provide for individual lots having surface areas of at least 65,340 square feet (1.5 acres), exclusive of roadways and ditches. Mobile homes permanently located on lots or tracts must comply with these regulations. A plat shall be furnished that shows all areas of the subdivision where the groundwater table is less than six feet below the surface as the surface exists or as it will be after the grading and filling that may be required in the subdivision development.

(e) No license shall be issued for any private sewage facility, and connection to an organized disposal system will be required when any part of the private sewage facility is closer than 300 feet in horizontal distance to an organized disposal system, unless it is shown to the satisfaction of the authority that it is not feasible for the organized disposal system to provide service to the tract or lot in question.

**§284.487. Licensing Function.**

The San Jacinto River Authority is designated by the commission to perform all of the licensing and related functions of this subchapter. The authority shall have the following powers:

(1) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter; and

(2) to collect all fees necessary to recover all the costs incurred in meeting the requirements of this subchapter.

**§284.488. Procedure for Obtaining Approval for Planned Private Sewage Facility Subdivisions.**

(a) Any developer or other person interested in creating a subdivision using private sewage facilities for disposal of sewage shall obtain approval of the authority prior to such private sewage facility development. An application for such approval shall be filed with the authority and shall set forth the name and address of the applicant, the address or location of the subdivision, map or plat showing the boundary lines of the subdivision and of the lots within the subdivision, and such soil percolation test results and such other data as may be necessary to permit the determination of whether the nature of the soils and drainage of the area will permit the use of a private sewage facility.

(b) All soil percolation tests must be certified by a registered professional engineer, registered sanitarian, or soil testing laboratory approved by the authority, and the authority shall be given an opportunity to witness the tests of the soil as they are conducted. The authority shall examine the application and make such additional inspections and tests as the authority shall consider necessary.

(c) If the authority finds that the subdivision meets the minimum lot size specified in §284.486 of this title (relating to Licenses for Private Sewage Facilities in Water Quality Zone) and that private sewage facility development would be suitable within the subdivision, it shall so advise the applicant. If the authority finds that a portion of a subdivision is suitable for private sewage facility development and the remainder is not suitable, it may specify those lots which are found suitable and those which are not found suitable.

(d) Approval of a subdivision, or of a part thereof, for private sewage facility development shall not constitute a license for private sewage facilities within the subdivision but shall be a prerequisite to the filing of an application for a license within the subdivision and all private sewage facilities installed within the subdivision must be licensed in the manner provided below.

**§284.489. License Procedure for New Private Sewage Facilities.**

The following procedures shall govern the issuance of licenses for private sewage facilities within the water quality zone:

(1) Application forms may be obtained from the offices of the county judges of Walker and Montgomery Counties or from the offices of the authority. In order to initiate an application for a

license, the completed application, together with the appropriate fee, must be filed with the office of the authority. The application shall include the name and address of the person making the application, the address or location of the property on which the system is to be built, the legal description and the dimensions of the property, the proposed use of the property including a description of the structure or structures proposed to be served, the plans for the private sewage facility, a plot plan showing the location of the system in relation to boundary lines of the lot, the proposed loading of the system, and the applicant's certificate that the system is designed in accordance with the latest edition of Construction Standards for Private Sewage Facilities, as published by the Texas Department of Health and as may be amended from time to time. If the property involved is not part of a recorded subdivision, the application shall be accompanied by a map or aerial photograph of sufficient detail to clearly locate the land on which the system will be constructed, with the location of the system shown therein.

(2) Within 30 days after receipt of the application, the authority will cause to be performed such inspections and tests as may be deemed necessary, which may include percolation tests as prescribed in the latest edition of Construction Standards for Private Sewage Facilities, a site inspection and other such tests and inspections as the authority may consider appropriate. The cost of such percolation tests shall be borne by the applicant. If the application is approved, the private sewage facility shall be constructed in accordance with the plans submitted with the application. If the application is disapproved as submitted, but the authority is of the opinion that a private sewage facility of a different design may be constructed on the property, it shall advise the applicant in writing of the necessary changes.

(3) All private sewage facilities shall be constructed in accordance with the plans approved by the authority, and any deviation from the plans must be approved by the authority. The construction of the system shall be subject to inspection by the authority at all reasonable times, and upon completion of construction but before the system is covered, the authority shall make a final inspection to insure compliance with this subchapter. The license shall be issued to the applicant by the authority when all requirements have been met.

#### **§284.490. Term of License.**

Licenses for private sewage facilities issued under this subchapter shall be effective for a term of five years. At the end of five years, the system shall be reinspected and an inspection fee assessed the owner. A license issued under the terms of this subchapter may be renewed for a period of five years. Any license issued under this subchapter shall automatically terminate if there is a subdivision or resubdivision of the property served by the private sewage facility, or if ownership of the property is changed, or if the property is used for a purpose other than that described in the license, or if the loading of the system is increased beyond that stated in the license, or if the system is found by the authority not to be in compliance with any other requirements of this subchapter.

**§284.491. Operation and Maintenance.**

Private sewage facilities licensed under this subchapter shall be operated and maintained in accordance with the latest edition of the "Standards" as set forth by the Texas Department of Health. All maintenance and servicing of private sewage facilities shall be performed by the owner or by servicing organizations approved by the authority. All wastes removed from private sewage facilities must be hauled to an organized disposal system for final disposal. Policies for acceptance of all sewage, sludge or other waste will be established by the owner of the organized disposal system receiving the wastes. All private sewage facilities licensed under this subchapter shall be subject to inspection by the authority at all reasonable times for the purpose of determining compliance with the terms of the license and this subchapter. If during the term of the license, the authority deems it necessary to inspect a private sewage facility to insure compliance with all the provisions of this subchapter, an inspection fee may be assessed the owner. If the system is found to be in compliance with this subchapter, no fee shall be assessed.

**§284.492. Exceptions and Appeal.**

(a) Terms and conditions for granting exceptions. The commission intends that the regulations contained in this subchapter shall be strictly enforced but realizes that certain individual situations may require the granting of an exception to the requirements outlined in the order so that hardships may be avoided. Therefore, the following terms and conditions are established.

(1) Any person desiring an exception shall file an application with the authority for its analysis of the specifics of the situation.

(2) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the decision, and also may set out what corrective measures, if any, could be undertaken to obtain licensure.

(b) Terms and conditions for appeal to the executive director and the commission. Any person aggrieved by an action or decision of the authority may appeal to the executive director, who will forward it to the commission, if the following terms and conditions are met:

(1) all of the appropriate steps required by the aggrieved person by the terms and conditions of this order have been met; and

(2) the aggrieved person has made a conscientious effort to resolve the problem with the authority.

**§284.493. Existing Private Sewage Facilities and Existing Subdivisions.**

(a) Private sewage facilities existing within the Lake Conroe restricted zone or water quality zone as of November 20, 1970 are not required to be licensed hereunder so long as the system is not changed, the loading on the system is not increased, ownership of the property is not changed, or there

is no subdivision or resubdivision of the property served by the system. This subchapter shall apply to the undeveloped portions of existing subdivisions as well as to subdivisions which are hereafter developed; however, the Authority may grant exceptions for existing subdivisions on such conditions as the Authority may prescribe if it finds that because of partial development prior to November 20, 1970 it is not feasible to connect the undeveloped portions of the subdivision to an organized disposal system and that development with private sewage facilities will not directly or indirectly injure public health.

(b) The following pertains to all private sewage facilities installed or constructed after November 20, 1970, and before December 16, 1976.

(1) Private sewage facilities that were licensed are subject to relicensing in accordance with this subchapter upon expiration of the existing license.

(2) Private sewage facilities that failed to be licensed under Texas Water Quality Board Order 70-1120-13 or Order 76-1216-4, replaced by this subchapter, are subject to licensing in accordance with this subchapter.

**§284.494. Severability.**

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are declared severable.

**§284.495. Enforcement.**

(a) Criminal penalty (Texas Water Code, §26.214).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation to be recovered as provided in the Texas Water Code, Chapter 26.

**§284.496. Fee Schedule.**

The authority shall establish a fee schedule for the private sewage facilities regulatory program around Lake Conroe and maintain a copy of such fee schedule at the offices of the authority for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the authority and may, subject to applicable laws, be amended by the authority from time to time.